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Attorneys for Defendant

Saint Alphonsus Regional Medical Center

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

HAL BROWN and JUDY BROWN, husband and wife,

Plaintiffs,

v.

SAINT ALPHONSUS REGIONAL MEDICAL CENTER, INC., an Idaho corporation, MATTHEW JUDD, D.O., an individual, and IDAHO EMERGENCY PHYSICIANS, P.A., and Idaho corporation,

Defendants.

Case No.: _____

Multnomah County Circuit Court

Case No. 15CV08648

**NOTICE OF REMOVAL OF
CIVIL ACTION**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441(a), and 1446, defendant Saint Alphonsus Regional Medical Center, Inc. ("Saint Alphonsus"), hereby removes the state court action described herein to the United States District Court for the District of Oregon – Portland Division. Saint Alphonsus files this notice of removal of civil action without waiving any defenses, exceptions, or obligations that may exist in its favor in state or federal court.

THE REMOVED ACTION

1.

On or about April 8, 2015, plaintiffs filed this action in the Circuit Court of the State of Oregon for the County of Multnomah as Case No. 15CV08648.

2.

On April 10, 2015, Saint Alphonsus received copies of plaintiffs' complaint and a summons directed to codefendant Dr. Judd.

PAPERS FROM REMOVED ACTION

3.

Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders received by Saint Alphonsus accompany this notice of removal, as follows: (a) summons to Dr. Judd, and (b) complaint. No other pleadings or orders have been received by or served by Saint Alphonsus in the underlying case.

REMOVAL IS TIMELY

4.

This notice of removal is filed within 30 days of receipt by Saint Alphonsus of a copy of the initial pleading setting forth plaintiffs' claim for relief, and therefore removal is timely under 28 U.S.C. § 1446(b).

VENUE

5.

The Circuit Court of the State of Oregon for the County of Multnomah is located within the Portland Division of the District of Oregon. Under 28 U.S.C. § 1441(a), venue for this removed action is proper in the District of Oregon – Portland Division, in accordance with 28 U.S.C. § 117 and LR 3-2(a)(1), because the notice of removal is filed in the district and division where the removed state court action is currently pending.

DIVERSITY OF CITIZENSHIP

6.

Plaintiffs' complaint alleges a civil action for medical negligence that falls within the court's original jurisdiction pursuant to 28 U.S.C. § 1332 (diversity of citizenship) and the action is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

7.

Upon information and belief, at the time plaintiffs commenced this action, and at the time of this notice of removal, plaintiffs were individual residents of the State of Oregon.

8.

Removing defendant Saint Alphonsus is currently, and was at the time plaintiffs filed this action, an Idaho nonprofit corporation, with its principal place of business in Boise, Idaho. At all material times, Saint Alphonsus was authorized to conduct business in the State of Oregon as a foreign nonprofit corporation.

9.

At all material times, codefendant Idaho Emergency Physicians, PA, ("IEP") was an Idaho corporation, with its principal place of business in Meridian, Idaho, which did no business in Oregon and had no contacts with the State of Oregon. At all material times, codefendant Matthew Judd, DO, was an individual residing in the State of Idaho, whose medical practice was limited to Idaho, and who had no contacts with the State of Oregon.

10.

Neither IEP nor Dr. Judd has been properly served with summons and complaint in this matter. For the purpose of this removal, their consent is unnecessary because they are unserved and because the state and federal courts in Oregon lack personal jurisdiction over them, so they are fraudulently joined as defendants.

11.

The amount in controversy is \$7,000,000.00, exclusive of interest and costs.

12.

Plaintiffs and defendants are citizens of different states. The amount in controversy, exclusive of interest or costs, exceeds the sum specified in 28 U.S.C. § 1332. Jurisdiction is proper in this court under 28 U.S.C. § 1332, based on diversity of citizenship.

FILING OF REMOVAL PAPERS

13.

Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal of Civil Action is being served upon counsel for plaintiffs, and a copy is being filed with the clerk of the Circuit Court of the State of Oregon for the County of Multnomah.

* * * * *

WHEREFORE, defendant Saint Alphonsus Regional Medical Center removes this civil action from the Circuit Court of the State of Oregon for the County of Multnomah and requests that all further proceedings be conducted in this Court.

DATED this 28th day of April, 2015.

WILLIAMS, KASTNER & GIBBS PLLC

By s/ David J. Ryan

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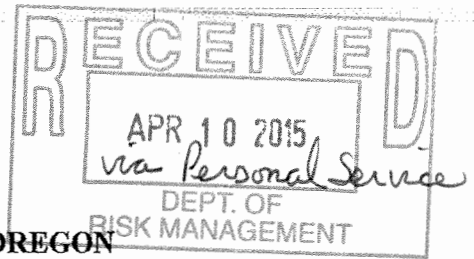
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*Attorneys for Defendant Saint Alphonsus
Regional Medical Center, Inc.*

Trial Attorneys:

David J. Ryan, OSB #953996

Eric J. Neiman, OSB #823513



**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH**

HAL BROWN and JUDY BROWN, husband and wife,)
)
Plaintiff(s),)

vs.)

SUMMONS

SAINT ALPHONSUS REGIONAL MEDICAL CENTER,)
INC., an Idaho Corporation; MATTHEW JUDD, D.O.,)
an individual; and IDAHO EMERGENCY PHYSICIANS,)
P.A., an Idaho Corporation,)
Defendant(s),)

Case No. 15CV08648

TO: Matthew Thomas Judd, D.O.
2963 East Copper Point Drive
Meridian, ID 83642

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 in the Portland metropolitan area or toll free elsewhere in Oregon at (800) 452-7636.

Name: Thomas D'Amore, OSB #922735
Address: 4230 Galewood Street, Suite 200
Lake Oswego, OR 97035
Telephone: (503) 222-6333
Trial Attorney: Thomas D'Amore, OSB #922735

P. Michael Rose #983388-For

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

P. Michael Rose
Attorney of Record For Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

P. Michael Rose
Attorney for Plaintiff(s)

4/8/2015 2:22:42 PM
15CV08648

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

HAL BROWN and JUDY BROWN, husband)	Case No. 15CV08648
and wife,)
) COMPLAINT
Plaintiffs,) (Medical Negligence)
)
v.) CLAIM NOT SUBJECT TO
) MANDATORY ARBITRATION
SAINT ALPHONSUS REGIONAL) (Pursuant to UTCR 13.060)
MEDICAL CENTER, INC., an Idaho)
Corporation; MATTHEW JUDD, D.O., an) Jury Trial Requested
individual; and IDAHO EMERGENCY)
PHYSICIANS, P.A., an Idaho Corporation,) PRAYER: \$7,000,000
)
Defendants.)
)

COMMON ALLEGATIONS

1.

At all material times, Hal Brown and Judy Brown were married and residents of Oregon.

PAGE 1 OF 5 – COMPLAINT

D'AMORE
LAW GROUP

4230 Galewood St., Ste. 200
Lake Oswego, OR 97035
(503) 222-6333

2.

At all material times, Nicholas Okon, D.O. ("Dr. Okon") was a physician licensed and practicing in the State of Oregon, holding himself out as a qualified and certified neurologist specializing in stroke. Dr. Okon is a resident of Multnomah County. Hal Brown was a patient of Dr. Okon and relied upon him to provide competent and complete medical and diagnostic care and services in Oregon through a telemedicine examination at Saint Alphonsus Regional Medical Center, Inc. ("St. Alphonsus"), in Idaho.

3.

At all material times, Northwest Stroke Solutions, PLLC ("NW Stroke") was a Montana corporation with sustained, continuous business activity in Multnomah County, Oregon.

4.

At all material times, Dr. Okon was an agent or apparent agent of NW Stroke acting within the course and scope of that agency or apparent agency.

5.

At all material times, Saint Alphonsus Regional Medical Center, Inc. ("St. Alphonsus") was an Idaho corporation with sustained, continuous business activity and licensed to do business in Oregon.

6.

At all material times, Idaho Emergency Physicians, P.A. ("IEP") was an Idaho corporation regularly, consistently and intentionally treating Oregon residents, including Hal Brown.

///

PAGE 2 OF 5 – COMPLAINT

1 7.

2 At all material times, Matthew Judd, D.O. ("Dr. Judd") was a physician licensed and
3 practicing in the State of Idaho, holding himself out as a qualified emergency physician, and
4 regularly treating Oregon residents. Hal Brown was a patient of Dr. Judd and relied upon him
5 to provide competent and complete medical and diagnostic care and services including
6 contacting Oregon through a telemedicine examination at Saint Alphonsus Regional Medical
7 Center ("St. Alphonsus") in Idaho.

8 8.

9 At all material times, IEP, , NW Stroke, Drs. Okon and Judd were agents or apparent
10 agents of St. Alphonsus acting within the course and scope of that agency or apparent
11 agency.

12 **FIRST CLAIM FOR RELIEF**

13 9.

14 Plaintiffs incorporate herein by reference paragraphs 1 to 8

15 10.

16 On April 13, 2013, Hal Brown suffers an acute ischemic stroke. Hal Brown presents
17 at Saint Alphonsus Regional Medical Center in Idaho. Matthew Judd, DO, examines Hal
18 Brown and orders tPA. Before tPA can be administered, Dr. Judd consults with Dr. Okon in
19 Oregon. Dr. Okon performs a telemedicine examination of Hal Brown. Dr. Okon stops Dr.
20 Judd from administering tPA. As expected, in the absence of tPA, Hal Brown progressively
21 declines. In failing to administer tPA, Drs. Okon and Judd failed to use the degree of care,
22 skill, and diligence that is used by ordinarily careful physicians.

23 ///

24 **PAGE 3 OF 5 – COMPLAINT**

11.

As a result of Dr. Okon and Judd's violations of the standard of care, Hal Brown suffered significant, permanent, and life-altering injuries and damages described more fully below.

SECOND CLAIM FOR RELIEF

(Loss of Consortium)

12.

Plaintiffs incorporate herein by reference paragraphs 1 to 11.

13.

As a direct result of the negligence of defendants and each of them, Judy Brown has lost services, society, and companionship of her spouse Hal Brown.

DAMAGES AS TO ALL CLAIMS

14.

As a direct, proximate, and foreseeable result of the negligent acts and omissions of Defendants, and each of them, Hal Brown suffered and will suffer economic damages in the amount of \$1,000,000 and noneconomic damages in the amount of \$5,000,000.

15.

As a direct, proximate, and foreseeable result of the negligent acts and omissions of Defendants, and each of them, Judy Brown suffered and will suffer noneconomic damages in the amount of \$1,000,000.

WHEREFORE, Plaintiffs pray for judgment as follows:

1. For Hal Brown, economic damages in the amount of \$1,000,000.
2. For Hal Brown, noneconomic damages in the amount of \$5,000,000.

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3. For Judy Brown, noneconomic damages in the amount of \$1,000,000.
4. For Plaintiffs' costs and disbursements incurred herein; and
5. Such other relief as the Court may deem just, proper, and equitable.

DATED: April 8, 2015.

/s/ Thomas D'Amore
Thomas D'Amore, OSB #922735
Nicholas A. Kahl, OSB #101145
Attorneys for Plaintiffs

Trial Attorney:
Thomas D'Amore
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CERTIFICATE OF SERVICE

I certify that I served the foregoing **NOTICE OF REMOVAL OF CIVIL ACTION** on the following attorneys by the method indicated below on the 28th day of April, 2015:

Attorneys for Plaintiff:

Thomas D'Amore, Esq.
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tom@damorelaw.com

____ Via First Class Mail
____ Via Federal Express
____ Via Facsimile
____ Via Hand-Delivery
____ ✓ Via E-Mail
____ ✓ Via ECF Notice

***Attorneys for Matthew Judd, D.O. and Idaho
Emergency Physicians, P.A.***

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____ Via Facsimile
____ Via Hand-Delivery
____ ✓ Via E-Mail
____ Via ECF Notice

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____ Via Facsimile
____ Via Hand-Delivery
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____ Via ECF Notice

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By s/ David J. Ryan

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Eric J. Neiman, OSB #823513

*Attorneys for Saint Alphonsus Regional Medical
Center, Inc.*